

52796

United States General Accounting Office

GAO

Report to Congressional Requestors

RESTRICTED — Not to be released outside the General Accounting Office except on the basis of specific approval by the Office of Congressional Relations.

November 1985

TAX CODE AMENDMENT

A Change in Foreign- Owned U.S. Corporations' Reporting Requirements



General Government Division**B-220847**

November 1, 1985

The Honorable Dan Rostenkowski
Chairman, Joint Committee on
Taxation

The Honorable Bob Packwood
Vice Chairman, Joint Committee on
Taxation
Congress of the United States

In a July 31, 1984, letter, the Joint Committee asked GAO to undertake a study of foreign-owned U.S. corporations and to specifically develop information on effective tax rates and Internal Revenue Service (IRS) tax compliance activities with respect to such corporations. This report addresses one aspect of IRS' compliance activities that could be improved by congressional action, that is, by amending section 6038A of the Internal Revenue Code. Under section 6038A, certain foreign-owned U.S. corporations are required to submit an information return to IRS if they conduct transactions with a related domestic or foreign corporation. Congress believed, in part, that this information would enhance compliance.

We are concerned that the present language of section 6038A is not sufficiently broad. IRS International Enforcement Program officials told us that some foreign-owned U.S. corporations may have transactions with related foreign individuals and related noncorporate foreign entities, such as trusts and partnerships—transactions that presently would not have to be reported to IRS under section 6038A. The officials could not quantify the extent of these transactions but said that the transactions should be reported even if the number is relatively small. They also said that an amendment to section 6038A is needed to help IRS enforce the tax laws by identifying transactions between foreign-owned U.S. corporations and their noncorporate foreign owners. We agree.

On August 28, 1985, we discussed this expanded reporting concept with one of the principal drafters of section 6038A, a legislative attorney on the Joint Committee's staff. The attorney agreed that section 6038A should be revised and said that the staff would welcome GAO input in that regard. Accordingly, we offer the suggested statutory language in appendix I for your consideration.

We are continuing to develop information on effective tax rates and IRS' compliance activities with respect to foreign-owned U.S. corporations.

We plan to report separately on these subjects, and we have provided periodic briefings to the Joint Committee staff.

We discussed this report with the Assistant Commissioner (Examination), who has overall responsibility for IRS' International Enforcement Program. The Assistant Commissioner agreed with the material presented. Unless you publicly announce its contents or authorize its release sooner, no further distribution of this report will be made until 30 days from the date of the report.

W. J. Anderson

William J. Anderson
Director

Code Sec. 6038A. Information With Respect to Certain Foreign-Owned Corporations.

(a) Requirement.-If, at any time during a taxable year, a corporation (hereinafter in this section referred to as the "reporting corporation")-

(1) is a domestic corporation or is a foreign corporation engaged in trade or business within the United States, and

(2) is controlled by a foreign person,

such corporation shall furnish, at such time and in such manner as the Secretary shall by regulations prescribe, the information described in subsection (b).

(b) Required Information.-For purposes of subsection (a), the information described in this subsection is such information as the Secretary may prescribe by regulations relating to-

(1) The name, principal place of business, nature of business, and country or countries in which organized or resident, of each corporation which-

(A) is a member of the same controlled group as the reporting corporation, and

(B) had any transaction with the reporting corporation during its taxable year,

(2) transactions between the reporting corporation and each foreign corporation which is a member of the same controlled group as the reporting corporation,

(3) the name, principal place of business, nature of business, and country or countries in which organized or resident of any foreign person (other than a foreign corporation referred to in paragraph (2)) which controls the reporting corporation,

(4) transactions between the reporting corporation and any foreign person referred to in paragraph (3), and

(5) the manner in which the reporting corporation is related to each corporation and each foreign person referred to in paragraphs (1) and (3), respectively.

Requests for copies of GAO reports should be sent to:

U.S. General Accounting Office
Post Office Box 6015
Gaithersburg, Maryland 20877

Telephone 202-275-6241

The first five copies of each report are free. Additional copies are \$2.00 each.

There is a 25% discount on orders for 100 or more copies mailed to a single address.

Orders must be prepaid by cash or by check or money order made out to the Superintendent of Documents.

32796

United States
General Accounting Office
Washington, D.C. 20548

Bulk Rate
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use, \$300

A handwritten signature or set of initials, possibly 'JG', written in dark ink. The letters are stylized and cursive.